



International Tribunal for the
Prosecution of Persons Responsible for
Serious Violations of International
Humanitarian Law Committed in the
Territory of the Former Yugoslavia
since 1991

Case No.: IT-04-74-T
Date: 29 November 2007
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua

Registrar: Mr Hans Holthuis

Decision of: 29 November 2007

THE PROSECUTOR

v.

Jadranko PRLIĆ
Bruno STOJIĆ
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ĆORIĆ
Berislav PUŠIĆ

PUBLIC WITH CONFIDENTIAL ANNEX

**DECISION ON THE MOTION FOR PROVISIONAL RELEASE OF THE
ACCUSED PRALJAK**

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Douglas Stringer

Counsel for the Accused:

Mr Božidar Kovačić and Ms Nika Pinter for Slobodan Praljak

The Republic of Croatia

TRIAL CHAMBER III (“Chamber”) of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“Tribunal”);

SEIZED of “Slobodan Praljak’s Motion for Provisional Release” and its annex, filed confidentially by Counsel for the Accused Slobodan Praljak (“Defence for the Accused Praljak”) on 8 November 2007 (“Accused Praljak’s Motion”), wherein the Defence for the Accused Praljak requests his provisional release to the Republic of Croatia for a reasonable period during the winter 2007/2008 judicial recess,

NOTING the “Prosecution Consolidated Response to Defence Applications for Provisional Release During Winter Recess”, filed confidentially by the Office of the Prosecutor (“Prosecution”) on 15 November 2007 (“Response”),

CONSIDERING that in support of the Motion, the Defence for the Accused Praljak submits that: (1) the Accused Praljak surrendered voluntarily to the Tribunal; (2) while on earlier releases the Accused Praljak fully complied with the conditions imposed by the Trial Chamber in its decisions on provisional release; (3) in a letter of 5 November 2007, the Government of the Republic of Croatia pledged that the Accused Praljak would comply with the conditions imposed by the Tribunal should the application for provisional release be granted by the Chamber and guaranteed that the Accused Praljak would return to The Hague at the request of the Chamber; (4) the Accused Praljak personally pledged to fully comply with all the conditions of provisional release imposed by the Tribunal, and finally (5) the Accused Praljak wishes to deal with some administrative matters, undergo some medical tests, and visit with his family,

CONSIDERING that in the Response, the Prosecution again opposes the provisional release of all the Accused because none of the reasons given by the Accused in support of their motions for provisional release constitute humanitarian grounds for release,

CONSIDERING alternatively that should the Chamber grant the Accused Praljak’s Motion, the Prosecution requests that: (1) the Accused Praljak be prohibited from

setting foot or travelling in Bosnia and Herzegovina; (2) the Accused Praljak be prohibited from having any contact with any witness, potential witness (be it a witness called by the Prosecution, Defence or Chamber) or victim; (3) the Accused Praljak be prohibited from discussing the case with anyone other than his Counsel and (4) from having any contact with the media,

CONSIDERING that pursuant to Rule 65 (B) of the Rules of Procedure and Evidence (“Rules”) the Chamber may order provisional release “only if it is satisfied that the accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person”,

CONSIDERING that the Accused Praljak, while on earlier release, complied with all the conditions imposed by the Trial Chambers in their orders and decisions dated 30 July 2004,¹ 1 July 2005,² 14 October 2005,³ 26 June 2006,⁴ 8 December 2006,⁵ and 11 June 2007,⁶

CONSIDERING that the host country has not objected to any possible provisional release proceedings,⁷

CONSIDERING that in its letter of 5 November 2007, the Government of the Republic of Croatia provided guarantees to the effect that the Accused Praljak would return to The Hague and would not abscond,

CONSIDERING that the Accused Praljak pledges to fully comply with all the conditions for provisional release imposed by the Tribunal,

CONSIDERING in addition that, given the Accused’s appropriate behaviour on previous occasions, the Chamber is satisfied that, if released, the Accused Praljak will return for the resumption of his trial and not pose a danger to any victim, witness or other person,

¹ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Provisional Release of Slobodan Praljak, 30 July 2004.

² *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Order on Slobodan Praljak’s Motion for Variation of Conditions of Provisional Release, 1 July 2005.

³ *The Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision to Grant Accused Slobodan Praljak’s Supplemental Application for Variation of Conditions of Provisional Release, 14 October 2005.

⁴ Decision on Motion for Provisional Release of the Accused Praljak, 26 June 2006.

⁵ Decision on the Motion for Provisional Release of the Accused Praljak, 8 December 2006.

⁶ Decision on the Motion for Provisional Release of the Accused Praljak, 11 June 2007.

⁷ See letter from the Ministry of Foreign Affairs dated 15 November 2007.

CONSIDERING therefore that the conditions set out in Rule 65 of the Rules have been met,

CONSIDERING furthermore that the Chamber will adjourn proceedings for the winter 2007/2008 judicial recess and that during this period the presence of the Accused Praljak will not be required in court,

CONSIDERING that the Accused Praljak's request to deal with administrative matters and to undergo medical tests may justify the granting of a short period of provisional release,

CONSIDERING therefore that the Chamber decides to grant the provisional release of the Accused Praljak,

CONSIDERING, however, that the provisional release should be limited to a short period, which will be enough for him to deal with his administrative and medical issues,

CONSIDERING that such a short visit will enable the police authorities of the Republic of Croatia to carry out effective surveillance of the Accused Praljak, thereby providing an additional guarantee that he will appear for the resumption of trial after the judicial recess,

CONSIDERING that the Chamber is of the opinion that during his stay in the Republic of Croatia the Accused Praljak must be under continuous surveillance by the authorities of the Republic of Croatia in order to guarantee his safety and appearance for the resumption of trial,

CONSIDERING therefore that the Accused Praljak will be provisionally released during the dates and subject to the conditions set out in the confidential annex to this decision,

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 65 of the Rules,

GRANTS the Accused Praljak's Motion **AND**

ORDERS the provisional release of the Accused Praljak during the dates and subject to the conditions set out in the confidential annex to this decision.

JUDGE ANTONETTI appending a dissenting opinion as regards the public nature of the present decision.

Done in English and in French, the French version being authoritative.

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-ninth day of November 2007
At The Hague
The Netherlands

[Seal of the Tribunal]